

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

ROBERT E. JOHNSON, III,

Petitioner

vs.

JEROME WALSH, *et al.*,

Respondents

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CIVIL NO. 1:CV-13-1522

(Judge Caldwell)

M E M O R A N D U M

I. *Introduction*

Presently before the court is a pro se motion (Doc. 18) for reconsideration of the order dated July 11, 2014, dismissing Johnson's habeas petition as successive and untimely filed. (Doc. 16). For the reasons that follow, the motion for reconsideration is denied.

II. *Standard of Review*

The scope of a motion for reconsideration is extremely limited. *Blystone v. Horn*, 664 F.3d 397, 415 (3d Cir. 2011). "Such motions are not to be used as an opportunity to relitigate the case; rather, they may be used only to correct manifest errors of law or fact or to present newly discovered evidence." (*Id.*) (citing *Howard Hess Dental Labs, Inc., v. Dentsply Int'l Inc.*, 602 F.3d 237, 251 (3d Cir. 2010)). Thus, a movant seeking reconsideration must show: (1) an intervening change in controlling law; (2) the availability of new evidence that was previously unavailable; or (3) the need to correct a clear error of law or fact or to prevent manifest injustice. *Reisinger v. City of Wilkes-Barre*, 520 F. App'x 77, 81 (3d Cir. 2013). "New evidence" for the purpose of this inquiry "does

not refer to evidence that a party . . . submits to the court after an adverse ruling. Rather, new evidence in this context means evidence that a party could not earlier submit to the court because that evidence was not previously available." *Howard Hess Dental Labs. Inc.*, 602 F.3d at 252.

III. *Discussion*

Having reviewed the contents of Johnson's motion for reconsideration, we conclude that nothing contained in the submission alters the findings of our original order denying his habeas petition for lack of jurisdiction after we found it an unauthorized second successive and untimely petition. Accordingly, Petitioner's motion for reconsideration will be denied.

An appropriate order follows.

/s/ William W. Caldwell
William W. Caldwell
United States District Judge

Date: July 28, 2014